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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,042	02/11/2000	Albert D. Baker	Baker 21-4	6042
7590	11/03/2003		EXAMINER	LY, ANH VU H
Joseph B. Ryan Ryan & Mason, L.L.P. 90 Forest Avenue Locust Valley, NY 11560			ART UNIT	PAPER NUMBER
			2667	
DATE MAILED: 11/03/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/503,042	BAKER ET AL.	
	Examiner Anh-Vu H Ly	Art Unit 2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10, 14-23 and 27 is/are rejected.
- 7) Claim(s) 11-13 and 24-26 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-4, 7, 9-10, 14-17, 20, 22-23, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Abler et al (US Pub No 2003/0067884 A1). Hereinafter, referred to as Abler.

With respect to claims 1, 14, and 27, Abler discloses in Fig. 2, a multi-protocol network wherein workstations 205 (even though only one workstation is shown in Fig. 2) are self-determined and configured to the detected protocol (link type) (configuring at least one of the first and additional devices in accordance with the determined link type). Abler discloses in Fig. 4, the steps for determining the protocol and configuring the workstation in accordance to the detected link type in a multi-protocol network such as Ethernet, Token Ring, and ATM by sending messages such as link test pulses in Ethernet, loop-back messages in Token Ring, and idle characters in ATM. If those messages are detected then a network protocol is determined and the workstation configured itself to such determined protocol (automatically determining a link type associated with a communication link between a first device and at least one additional device coupled to the communications network by transmitting one or more messages from the

first device and examining a corresponding response received by the first device over the communication link).

With respect to claims 2 and 15, Abler discloses in Fig. 2, workstation 205 is self-determined and configured to the detected protocol for transmitting data to the network 100, therefore, workstation comprising a device for interfacing itself to the network 100 (first device comprising customer premises equipment).

With respect to claims 3 and 16, Abler discloses in Fig. 2, workstation 205 (server) is self-determined and configured to the detected protocol for transmitting data to the network 100. Herein, workstation is considered as a network server by the examiner.

With respect to claims 4 and 17, Abler discloses in Fig. 2, a multi-protocol network wherein workstations 205 are self-determined and configured to the detected protocol (link type) (determined link type is one of a plurality of link variants associated with the communication network).

With respect to claims 7 and 20, Abler discloses in Fig. 2, a multi-protocol network including Ethernet, Token Ring, and ATM network (communication network comprising an IP network).

With respect to claims 9 and 22, Abler discloses in Fig. 2, a multi-protocol network including Ethernet, Token Ring, and ATM network (communication link comprising an ATM VC).

With respect to claims 10 and 23, Abler discloses in Fig. 2, a multi-protocol network, including Ethernet, Token Ring, and ATM network, wherein workstations 205 are self-determined and configured to the detected protocol (link type) (determined link type comprising one of a plurality of link variants including one or more of LLC, PPP, an LLC-PPP, IP, LLC-IP, Ethernet protocol, and LLC-Ethernet protocol).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5-6, 8, 18-19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abler et al (US Pub No. 2003/0067884 A1).

With respect to claims 5-6 and 18-19, Abler discloses in Fig. 2, a multi-protocol network wherein workstation is self-determined and configured to the detected protocol. Abler does not disclose that workstation is coupled to the communication network via DSL line and/or wherein the workstation comprising an ADSL termination unit-receive device. However, digital subscriber lines (DSL) communications are known in the art. Therefore, it would have been

obvious to one having ordinary skill in the art at the time the invention was made to include the feature of having the communication between the workstation and the network via digital subscriber lines, having ADSL termination unit-receive (ATU-R) device, in Abler's system, since DSL can offer higher date rate.

With respect to claims 8 and 21, Abler discloses in Fig. 2, a multi-protocol network wherein workstation is self-determined and configured to the detected protocol. Abler does not disclose one of the plurality of link variants at least a subset of which corresponding to encapsulation of different types of protocols in ATM cells. However, different types of protocols encapsulated in ATM cells are known in the art such as IP/ATM, Ethernet/ATM, and SONET/ATM. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the feature of applying the method of self-determined and configured the detected protocol by the workstation in the multi-layered protocols such as IP/ATM, Ethernet/ATM, and SONET/ATM in Abler's system, to reduce costs.

Allowable Subject Matter

3. Claims 11-13 and 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Slykhouse et al (US Patent No. 5,574,722) discloses protocol independently switch.

Bailey et al (US Patent No. 5,497,460) discloses system and method for determining network connectivity.

Araujo et al (US Patent No. 6,108,350) discloses method and apparatus for detecting the protocol used by an end station and negotiating a protocol used by the endpoint.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh-Vu H Ly whose telephone number is 703-306-5675. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 703-305-4378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

avl


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 *6/29/03*